IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 34708 of 2007(F)

PETITIONER:

K.A.PREETHA KUMARI, AGED 47 YEARS,
W/O.SATHEESAN, SRUTHILAYAM, C/O.NANDANAM,
VAZHIKULANGARA, NORTH PARAVUR.

BY ADV. SRI.P.K.SAJEEV
SRI.JACOB GEORGE (PARAVUR)

RESPONDENTS:

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1. THE CHERANELLUR SERVICE CO-OPERATIVE
BANK LTD.NO.62, CHERANELLUR P.O.,
ERNAKULAM, REPRESENTED BY ITS SECRETARY.

2. THE PRESIDENT,
THE CHERANELLUR SERVICE CO-OPERATIVE
BANK LTD., NO.62, CHERANELLUR PO.,
ERNAKULAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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W.P.(C) No. 34708 of 2007-F

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Dated this the 27th day of November, 2007

J U D G M E N T

The petitioner, an employee of the first respondent Co-operative Bank, seeks stay of domestic enquiry, as part of disciplinary proceedings, initiated against her on allegations relating to misappropriation and unauthorised meddling with different accounts in the bank, for a period of around six years.

2. The contention advanced is that a criminal complaint has been instituted by the bank against her and therefore, following the decisions of the Apex Court in **M.Paul Anthony v.Bharat Gold Mines Ltd. and another [(1999) 3 Supreme Court Cases 679]** and **G.M.Tank v.State of Gujarat and others [(2006) 5 SCC 446]** the disciplinary proceedings may be stayed, pending final disposal of the criminal case.

3. M.Paul Anthony (supra) was a case where the accused-delinquent was being proceeded against on the basis of a raid

conducted in his residence, while, G.M.Tank (supra) related to offences punishable under the Prevention of Corruption Act. In the case in hand, the allegation of the bank is that, for about six years, the petitioner had unauthorisedly tinkered with different accounts in the bank and had misappropriated funds thereby. Prosecution for an offence on the same set of facts would be obviously different from the scope of the disciplinary proceedings because on such cases of alleged financial irregularity by way of misappropriation or otherwise, breach of trust and other incidental questions would also arise in the realm of disciplinary proceedings at the behest of the employer. Therefore, it is impermissible to assume that an acquittal in the criminal case should lead to exoneration in disciplinary proceedings. I, therefore, do not find any grounds to accede to the plea of the petitioner.

In the result, the writ petition fails and the same is dismissed in limine.

THOTTATHIL B.RADHAKRISHNAN,
Judge

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